

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KEN JOSEPH

Plaintiff,

v.

BARCLAYS BANK DELAWARE

Defendant.

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Civil Action No. _____

NOTICE OF REMOVAL

NOW COMES Defendant Barclays Bank Delaware (“Barclays”), by and through undersigned counsel, hereby gives notice of removal pursuant to 28 U.S.C. §§ 1331, 1441 and 1446 of Civil Action No. 15-M-35106 filed in the Magistrate Court of Gwinnett County, State of Georgia. Barclays respectfully states the following as grounds for removal of this action:

1. On or about December 4, 2015, Plaintiff filed a Complaint for Relief against Barclays in a lawsuit styled *Ken Joseph v. Barclays Bank Delaware*, in the Magistrate Court of Gwinnett County, State of Georgia (the “Lawsuit”). A copy of Joseph’s Complaint for Relief is attached hereto as **Exhibit A**.

2. In the Complaint against Barclays, Plaintiff asserts claims against Barclays for violation of the Telephone Communications Act, 47 U.S.C. § 227 *et seq.* and violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (collectively “Federal Question Claims”).

3. 28 U.S.C. § 1446(b)(2)(B) provides that for cases removed on federal question grounds, “Each defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons described in paragraph (1) to file the notice of removal.”

4. Plaintiff’s Complaint raises cognizable claims that arise under the laws of the United States, specifically claims for violation of the Telephone Communications Act, 47 U.S.C. § 227 *et seq.* and violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*

5. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 because Plaintiff’s Federal Question Claims in the Complaint are claims, “arising under the Constitution, laws or treaties of the United States.”

6. This Notice of Removal is timely under 28 U.S.C. §1446(b). Plaintiff’s Complaint was received by Barclays on December 8, 2015. This Notice of Removal is filed within thirty (30) days Barclays’ receipt of the Complaint.

7. Pursuant to 28 U.S.C. § 1446(d), Barclays is filing a Notice to Magistrate Court of Filing Notice of Removal with the Clerk of the Magistrate Court of Gwinnett County, State of Georgia, and is serving said Notice on all parties. *See* Notice to State Court of Filing Notice of Removal (without Exhibits) attached as **Exhibit B**.

8. Copies of all process, pleadings, and orders served on Barclays in the Magistrate Court action are attached hereto as **Exhibits A-B**.

9. By reason of the foregoing, Barclays desires and is entitled to have the above-captioned matter removed from the Magistrate Court of Gwinnett County, State of Georgia to this Court.

WHEREFORE, Barclays removes this civil action from the Magistrate Court of Gwinnett County, State of Georgia to the United States District Court for the Northern District of Georgia.

This the 5th day of January, 2016.

/s/ Michael D. DeFrank

Michael D. DeFrank

(Georgia State Bar No. 215865)

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***Attorney for Defendant Barclays Bank
Delaware***

CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following as well as serving each of them via United States Mail, first class postage-prepaid addressed as follows:

Ken Joseph
596 Middleton Place
Grayson, GA 30017

/s/ Michael D. DeFrank
Michael D. DeFrank
(Georgia State Bar No. 215865)
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